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7 UNITED STATES DISTRICT COURT
8 FOR THE WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 “Vicky”,

11 Plaintiff,

12 v.

13 Joshua Osmun Kennedy,

14 Defendant.

15 **CONSOLIDATED**

16 LEAD CASE NO. C13-17 RAJ

17 MEMBER CASE NO. C13-762 RAJ

18 DECLARATION OF CAROL L.
19 HEPBURN IN SUPPORT OF
20 PLAINTIFFS' MOTION FOR PARTIAL
21 SUMMARY JUDGMENT

22 **NOTE ON MOTION CALENDAR:**

23 August 29, 2014

24 WITHOUT ORAL ARGUMENT

25 CAROL L. HEPBURN hereby declares the following to be true and correct
26 under penalty of perjury of the laws of the State of Washington:

27 I am one of the attorneys representing the Plaintiff “Vicky” in this action herein.

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1. I am attorney admitted to practice law in the States of Washington and
2. Oregon. I submit this Declaration in support of Amy and Vicky's Motion
3. for Partial Summary Judgment in this case.
4. Attached as Exhibit A is a true and correct copy of the documentation
5. submitted by Vicky in support of her restitution request on resentencing
6. of defendant Kennedy in August 2012.
7. As a part of my undertaking representation of Vicky in early 2009, I
8. assumed the responsibility of receiving notices of federal prosecutions
9. involving her images. Through the Department of Justice Victim
10. Notification System (VNS), and victim of a child pornography who
11. requests notice will receive a notice of each prosecution involving her
12. images and sometimes multiple notices in a single case advising of
13. separate hearings in that case. Since first being designated to receive
14. notices from VNS I have received multiple notices a day concerning
15. prosecutions involving her images. This continues unabated to the
16. present time.
17. Attached as Exhibit B is a true and correct copy of the subpoena dated
18. July 3, 2014 I issued to NCMEC seeking: That portion of CVIP,
19. Reference No. 29444, regarding the "Vicky Series." As the Ninth Circuit
20. explained in Kennedy 643 F.3d at 1245 n. 8, "The Child Victim
21. Identification Program at the National Center for Missing & Exploited
22. Children." I am attorney admitted to practice law in the States of Washington and
23. Oregon. I submit this Declaration in support of Amy and Vicky's Motion
24. for Partial Summary Judgment in this case.
25. Attached as Exhibit C is a true and correct copy of the affidavit of Carol L. Hepburn,
26. attorney at law, regarding the "Vicky Series." As the Ninth Circuit
27. explained in Kennedy 643 F.3d at 1245 n. 8, "The Child Victim
28. Identification Program at the National Center for Missing & Exploited
29. Children." I am attorney admitted to practice law in the States of Washington and
30. Oregon. I submit this Declaration in support of Amy and Vicky's Motion
31. for Partial Summary Judgment in this case.

DECLARATION OF CAROL L. HEPBURN
IN SUPPORT OF PLAINTIFFS/ MOTION
FOR PARTIAL SUMMARY JUDGMENT - 2

CAROL L. HEPBURN, P.S.
ATTORNEYS AT LAW
2722 EASTLAKE AVENUE E, SUITE 200
SEATTLE, WA 98102
TEL: (206) 957-7272 / FAX: (206) 957-7273

1 Children (“NCMEC”) assists law enforcement in identifying the victims of
2 child pornography. When a law enforcement agency submits copies of
3 seized images, NCMEC returns a report identifying the child victims
4 depicted in them.” See also <http://www.missingkids.com/CVIP>. On or
5 about July 7, 2014, NCMEC responded to the subpoena with a CVIP
6 Report, a true and correct copy of excerpts related to Vicky which is
7 attached as Exhibit C.

- 8
- 9 5. Attached as Exhibit D is a true and correct copy of Vicky’s Complaint
10 filed in this court on April 30, 2013.
 - 11 6. Attached as Exhibit E is a true and correct copy of Defendant Kennedy’s
12 responses to Plaintiff Vicky’s First Requests for Admission to Defendant.
 - 13 7. Attached as Exhibit F is a true and correct copy of excerpts of the
14 criminal trial testimony - Witnesses Derrick Donnelly and Roy Shepard.
 - 15 8. I represented Vicky in her request for restitution in Mr. Kennedy’s
16 criminal matter before this court. As a part of their pursuit of restitution,
17 after the court’s resentencing of Mr. Kennedy in 2012, Amy and Vicky
18 filed a Writ of Mandamus requesting review by the Ninth Circuit Court of
19 Appeals of the court’s order on resentencing regarding restitution. That
20 matter is styled *Amy and Vicky v. USDC-WAWSE*, No. 73414. Amy and
21 Vicky further filed a Petition for Writ of Certiorari to the United States
22 Supreme Court from the Ninth Circuit’s decision affirming the District
23 Court. That petition was stayed pending the decision in *Paroline v.*
24
 - 25

CAROL L. HEPBURN, P.S.

ATTORNEYS AT LAW

2722 EASTLAKE AVENUE E, SUITE 200

SEATTLE, WA 98102

TEL: (206) 957-7272 / FAX: (206) 957-7273

United States. Once *Paroline* was decided by the Supreme Court the Kennedy petition was granted, the lower court order vacated, and the matter remanded for reconsideration in light of *Paroline*. Attached hereto at Ex. G is a true and correct copy of the letter of the Supreme Court Clerk in that regard. As of the date of this declaration, no action has yet been taken by the Ninth Circuit and the matter remains pending. Attached as Exhibit H is a true and correct copy of the last order from the Ninth Circuit in that matter.

DATED this 5th day of August, 2014 at Seattle, Washington.

CAROL L. HEPBURN, P.S.

/Carol L. Hepburn
Carol L. Hepburn
2722 Eastlake Avenue East, #200
Seattle, WA 98102
(206) 957-7272
(206) 957-7273 fax
Emails: carol@hepburnlaw.net
Of attorneys for Plaintiff